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FM AMEMBASSY BAGHDAD
TO RUEHC/SECSTATE WASHDC 5488
INFO RUCNRAQ/IRAQ COLLECTIVE
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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 003042

SIPDIS

COMMERCE FOR SUSAN HAMROCK-MANN, IRAQ AND AFGHANISTAN IRTF

E.O. 12958: DECL: 11/15/2019

TAGS: ECON EFIN EINV ETRD IZ PREL FR GM PL

SUBJECT: RIDING HIGH AFTER THE CONFERENCE: IRAQ'S NATIONAL INVESTMENT COMMISSION'S NEXT PROJECTS

REF: A. BAGHDAD 953

1B. BAGHDAD 1838

1C. BAGHDAD 2765

Classified By: Coordinator for Assistance Transition Patricia Haslach f or reasons 1.4 (b) and (d).

11. (C) Summary: Dr. Sami al-Araji, the chairman of Iraq's National Investment Commission (NIC) and our organizational partner for the October 20-21 U.S.-Iraq Business and Investment Conference (BIC) in Washington, outlined for us his plans to capture the momentum from Iraq's investment conferences in Washington, Germany and France to push through further reforms in Iraq's business regulatory environment and to expand the authority and capacity of the NIC itself. Having succeeded in pushing important amendments to Iraq's National Investment Law through the Council of Representatives in October, Sami will now focus on four priorities: getting Iraq to sign up to an international arbitration convention; establishing "investors' courts;" facilitating insurance companies' coverage of investment projects in Iraq (particularly for SME's); and helping get at least some of the four U.S.-Iraq bilateral economic agreements ratified by the CoR before the end of this Maliki administration. Sami believes the recent effort by Iraqi Vice President Tariq al-Hashimi to annul the newly-passed amendments to the Investment Law will require only a simple "technical" fix at the CoR to resolve. End Summary.

12. (SBU) Dr Sami has not been in Baghdad much in the three-plus weeks since the high-profile BIC in Washington -- he brought a two-minister delegation with 70-80 Iraqi business people to Germany for investment conferences in Berlin (Nov. 5-6) and Munich (Nov. 7-8), and then departed Baghdad again for France for a similar investment conference (Nov. 16-17), linked to a state visit by President Talibani. The Iraqi president and entourage will continue on to Poland, for another state visit and meetings with Polish business people. The Polish government will then host a several-day seminar for Iraqi government officials to discuss Poland's experience privatizing its state-owned enterprises (SOEs).

Dr. Sami's On A Roll...

13. (C) We have managed to see Dr. Sami a few times in Baghdad since the BIC, including at a luncheon in his honor hosted by Coordinator for Assistance Transition Patricia Haslach. The lunch brought together the conference work teams from the NIC, Embassy Economic Section, U.S. Foreign Commercial Service, MNF-I's CJ-9 group, and DoD's Task Force for Business and Stability Operations (TF BSO). In all encounters, Sami has praised USG organization of the conference and our support for the NIC. Sami sees the next few months as critical for harnessing the momentum and goodwill generated by the Iraqi investment conferences to

push through reforms and improvements to Iraq's business and investment environment. The recent amendment to the National Investment Law (NIL -- reflets), if implemented effectively, would substantially empower the NIC and its chairman. By Sami's design, it directly links the NIC to the Prime Minister's office. It also sets up a mechanism, through a newly-authorized NIC board of directors appointed by the Prime Minister, to identify and allocate state land to investors, while compensating ministries for the land they are giving up. (Note: Inability to acquire long-term use of suitable land parcels has stymied many dozens of licensed investment projects and is a main source of investor complaints in Iraq. (Ref C) End Note.)

...Despite the Investment Law Annulment

14. (C) Dr. Sami told Haslach he was "not worried" by the surprising news on November 11 that Vice President Tariq al-Hashimi had "annulled" the amendment to the NIL. Sami said al-Hashimi had based his annulment on a technical glitch in the amendment. According to Sami, the amendment stated that the Prime Minister will appoint the Provincial Investment Commission (PIC) chairmen, who will have rank of Director General (DG). But the Iraqi Constitution provides that appointment to government positions at the rank of DG and above shall be by the Council of Ministers (CoM -- of which the PM is chair). Sami said it made little difference whether the appointments were made by the PM or the CoM, and the CoR will vote on this "word fix" the next time the CoR reaches a quorum. (Note: Informed CoR watchers have told us that al-Hashimi is looking for ways to raise his profile in

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the run-up to the election. On November 15, al-Hashimi raised the stakes much higher by calling into question the validity of the crucial, recently passed election law, allegedly because it does not sufficiently accommodate the voting needs of the many Iraqi refugees living abroad. End Note.)

Dr. Sami's Next Agenda

15. (C) Looking ahead, Dr Sami outlined for Haslach his political and legislative agenda for the next several months. He said he will be promoting:

-- Iraq's establishment of special "investors' courts" to ensure that disputes involving foreign investors receive a fair hearing.

-- Iraq's adoption of one of the internationally recognized conventions on recognizing foreign arbitral awards. (Note: Iraq is one of the few countries not to have signed the "New York Convention" or similar agreements; all of Iraq's immediate neighbors, Turkey, Syria, Iran, Saudi Arabia, Kuwait and Jordan, have signed up to the New York Convention.

Dr. Sami indicated that Iraq is leaning toward joining the "Paris Agreement" rather than the New York Convention, a point that the PM's legal advisor Dr. Fadel also made at the BIC. End Note.)

-- Private insurance companies to begin to insure investment projects for a range of risks.

-- Ratification in the CoR of three of the four U.S.-Iraq bilateral agreements. Sami cautioned, however, that the Assistance Agreement, containing Iraqi concessions on sensitive privileges and immunities, would take a long time to receive CoR approval and should be detached from the other three less-controversial agreements. (Note: Signed separately in 2005, the four agreements (the OPIC, Trade and Investment Framework, Assistance, and Agricultural Cooperation Agreements) were finally submitted to the CoR for

ratification in July 2009. Once in effect, they could facilitate tens of millions of dollars in assistance, funding, and investment insurance. End Note.)

¶16. (C) Sami also told us he understands that the NIC will need to expand and become better organized if it is to meet the challenges of its new authority and potential role within the GOI. The NIC is a relatively new creation (2007), arising out of the National Investment Law of 2006, and has struggled for influence over other, more established (and conservative), ministries. Sami told us he plans to incrementally hire professionally qualified senior managers (perhaps including non-Iraqis), and experts in law, finance, business, and other areas to run offices within the NIC and coordinate with foreign investors. He wants to expand the capabilities of the NIC's current "One-Stop-Shop" (now authorized to issue investment licenses) to provide better coordination with Iraq's various ministries to solve investors' problems. Sami already is making good use of U.S. consultants (provided by the TF BSO) to organize and design the NIC's international public outreach. (Comment: We will continue to recommend that he establish an investors' "Ombudsman's Office" to help foreign companies facing difficult bureaucratic obstacles (or frequently-occurring GOI non-payments problems) and to strengthen the NIC's relationships with the Provincial Investment Commissions. End Comment)

Comment

¶17. (C) Comment: Under Sami's chairmanship since March 2009 (Ref A), the NIC has become much more active and assertive within the GOI, but it is widely seen as an organization too dependent on Sami's considerable personal energy, vision, and political acumen. Dr. Sami and "his" NIC, despite structural and political weaknesses, are good allies in our efforts to liberalize and diversify Iraq's economy. We will continue to support and nurture the NIC as it builds political capital and institutional capacity. Dr. Sami is riding high now, having delivered the Prime Minister and (in Iraqi eyes) Secretary Clinton to the BIC in Washington, as well as garnering Iraq much positive press through the series of conferences in the United States and Europe. Sami's four near-term goals outlined above dovetail with this Mission's legislative and regulatory economic objectives over the next several months and we will continue to coordinate with him to

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try to achieve them.

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